

Notice of Allowability

Application No.

09/729,811

Examiner

Scott Beliveau

Applicant(s)

CANDELORE ET AL.

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2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/9/07.
2. ☒ The allowed claim(s) is/are 20-27 and 29-57.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with William W. Schaal on 22 May 2007.
3. The application has been amended as follows:
Claims 25, 34, 37, and 49 have been amended to read:

25. An article of manufacture including a machine-readable medium having encoded thereon instructions that executed by a processor, cause the processor to perform the operations comprising:

detecting a tuning event where a channel is continuously tuned in for over a selected period of time;

maintaining relative statistics on one or more items related to the tuning event by eliminating any occurrence of rollover of a count value through adjustment of the count value of each of the one or more items relative to each other upon the count value reaching a predetermined value and being reset when the count value is next incremented; and

creating automatically a list of favorites based on the maintained relative statistics.

34. A broadcast system comprising:

a display;

a receiver coupled to the display and to store relative statistics, to detect a tuning event, to maintain the relative statistics related to a plurality of items of the tuning event, to eliminate any occurrence of rollover of a count value by automatically adjusting the count value of each of the plurality of items relative to each other once one of the plurality of items reaches a maximum value so that an order of the plurality of items according to count value remains intact, and to create automatically a list of favorites based on the relative statistics in the memory.

37. A method for a broadcast system comprising: detecting a tuning event:

maintaining relative statistics on one or more items related to the tuning event, the maintaining of the relative statistics includes eliminating any occurrence of rollover of count values by adjusting the relative statistics of each item of the one or more items in response to a count value of a first item of the one or more items reaching a predetermined value, the rollover being a condition where the count value of the first item of the one or more items, the count value being a relative statistics of the one or more items, reaches the predetermined value before being reset; and

creating a list of favorites based on the maintained relative statistics.

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49. An apparatus comprising:

a front-end including a tuner;

a memory to store relative statistics;

and a processor in communication with the front-end and the memory, the processor to (i) detect a tuning event, (ii) maintain the relative statistics on one or more items related to tuning events, the relative statistics include a count value identifying either a number of times or a time interval that the item has been tuned to and received by the front-end, (iii) eliminate any occurrence of rollover of the count value by at least adjusting the count value of each of the one or more items relative to each other upon reaching a predetermined value prior to being reset, and (iv) create a list of favorites based on the relative statistics in the memory.

Allowable Subject Matter

4. The following is an examiner's statement of reasons for allowance:

The art of record wither alone or in combination fails to teach or suggest the particular elimination of a rollover of count values by relativistically reducing the count values relative to one another so as to determine favorite programming.

As to the closest art of record, only APA provides evidence as to a roll over condition in association with maintaining statistics or counts within a STB. The other references of record, however, are generally silent with respect to roll over conditions in association with maintaining statistics so as to determine favorite channels/programming. The Bedard reference generally provides a method for relativistically reducing the count values relative to

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one another in conjunction with determining favorite programming. However, the Bedard reference and other similar references are silent as to whether or not a theoretical rollover ever occurs such that the particular reduction in statistical counts necessarily eliminates a roll over conditions as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SEB
May 23, 2007

Scott Beliveau
Primary Examiner
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